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81-17

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AT THE TIME AND DATE NOTED
PAUL F. HARTSFIELD
CLERK OF CIRCUIT COURT

IN THE SECOND JUDICIAL
CIRCUIT OF FLORIDA

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER NO. 81-17

RE: Prohibiting all Circuit Court Clerks in Second Judicial Circuit from receiving Praecipes or issuing Subpoena Duces Tecum at the request of defense counsel for Criminal Discovery Depositions.

THIS MATTER having come before the undersigned Chief Judge upon the written presentation of Donald S. Modesitt, State Attorney of this Circuit, advising the Court of the facts contained herein below; and the Court finding that the Clerks of the Circuit Courts of this Circuit (and also in their capacity as Clerks of the County Courts) have been issuing subpoenas duces tecum for discovery depositions in criminal cases upon praecipe of the various assistant public defenders and other defense counsel; and the Court finding no authority in Rule 3.220(d), RCrP, for a discovery deposition subpoena to additionally compel that the witness bring with him any reports, documents, or other evidence of whatever kind or form; and the Court further finding that subsection (a)(1) of that same Rule 3.220 provides the manner and means by which the defense may discover materials in criminal cases; and the Court further having received the response of the Public Defender in this regard and the Court further having been advised that the Judges of the Criminal Division of the Circuit Court are unanimously in accord with the State's legal position and with the Administrative Order herein entered, it is thereupon accordingly

ORDERED AND ADJUDGED:

1. That the Clerks of the Court of this Circuit, and their Deputy Clerks, shall forthwith cease issuing, and they are hereby prohibited from issuing, subpoenas duces tecum for discovery depositions in criminal cases upon praecipe of defense counsel. Any subpoena for discovery deposition which additionally seeks to compel the witness to bring with him any reports, documents, or other evidence shall, upon presentation for issuance by defense counsel, be declined and returned to him or his office.

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2. Nothing herein shall preclude the issuance of such a duces tecum subpoena for discovery deposition when ordered by a Judge after motion, notice and hearing thereon pursuant to subsection (a)(5) of Rule 3.220, in which event the praecipe and proposed subpoena duces tecum, when presented to the Clerk for issuance, shall have attached thereto a true copy of the Court's Order directing the issuance of same.

DONE AND ORDERED in Chambers at Tallahassee, Florida, this 10th day of July, A.D. 1981, to become effective immediately.

BEN C. WILLIS
CHIEF JUDGE

Copies to:

State Attorney
Public Defender
All Clerks
Second Judicial Circuit
All Judges
Second Judicial Circuit

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CLERK OF THE CIRCUIT COURT & COMPTROLLER
LEON COUNTY
GWEN MARSHALL
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